

Remarks

Applicants respectfully request reconsideration of the present application in view of the above amendments and following remarks. Claims 30 and 31 have been added. No claims have been amended or cancelled. Therefore, claims 11-31 are pending in the present application.

Claims 11-29 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2003/0235723 to Simpkins et al. ("the Simpkins reference") in view of U.S. Patent No. 6,626,650 to Kenchington et al. ("the Kenchington reference").

Applicants submit that the Simpkins reference is disqualified as prior art under 35 U.S.C. § 103(c)(1) because the present patent application (U.S. Patent Application No. 10/606,850) and the Simpkins reference were, at the time the invention of the present patent application was made, owned by Delphi Technologies, Inc. ("Delphi") or subject to an obligation of assignment to Delphi. See 35 U.S.C. § 103(c)(1); MPEP 706.02(l)(1) & (2). The document assigning the rights in the present patent application to Delphi was recorded in the U.S. Patent & Trademark Office at Reel 014240, Frame 0714, and the document assigning the rights in the Simpkins reference was recorded in the U.S. Patent & Trademark Office at Reel 013865, Frame 0876.

Since the Simpkins reference does not qualify as prior art against the present patent application, Applicants submit that a prima facie case of obviousness has not been established with respect to claims 11-29. Applicants therefore request that the rejection of claims 11-29 be withdrawn.

New claim 30 is directed to a fuel cell assembly comprising at least one fuel cell stack, a supporting structure surrounding the fuel cell stack, and a gas spring disposed within the assembly between the stack and the supporting structure. *See, e.g., Specification*, pg. 5, lines 14-20; pg. 6, line 27 through pg. 7, line 5. The spring includes a membrane defining a gas chamber, wherein the gas within the closed chamber is at a first pressure. *See, e.g., id.* at pg. 6, lines 27-31. The assembly further includes a first valve positioned in the membrane for admitting gas to the chamber from an exterior of the gas spring, and a second valve positioned in the membrane for exhausting gas from the chamber into the exterior, wherein the exterior is at a second pressure. *See, e.g., id.* at pg. 5, line 28 through pg. 6, line 19.

New claim 31 depends from claim 30 and states that the second pressure is ambient air pressure. *See id.* at 4, lines 24-27; pg. 6, lines 2-7; FIGS. 2-3.

Applicants submit that the Kenchington reference fails to teach all of the limitations included in new claims 30 and 31. As best seen in FIG. 4, the Kenchington reference shows a compressor that uses three valves (106, 115, 116). The first valve (106) bridges ambient pressure air with a central chamber (104) and permits air to be drawn into the central chamber (104) when a movable piston (102) causes the volume of the central chamber (104) to increase, wherein the pressure in the central chamber (104) becomes less than ambient air pressure causing the first valve (106) to pop off its seat. The second valve (115) bridges the central chamber (104) with a compression chamber (105). As the movable piston (102) changes direction to reduce the volume in the central

chamber (104) (and increase its pressure), air is forced into the compression chamber (105) through the second valve (115). The third valve (116) bridges the compression chamber (105) with an outlet. As the movable piston (102) again changes direction (and begins to again increase the volume in the central chamber (104)), the air is compressed in the compression chamber (105). The second valve (115) is forced against its seat closing off flow between the central chamber (104) and the compression chamber (105). At the same time, the third valve (116) opens, releasing the compressed air from the compression chamber (105) to the outlet, thereby increasing the pressure of the air release from the outlet over the ambient air pressure.

The Kenchington reference fails to teach or suggest a fuel cell assembly comprising at least one fuel cell stack and a supporting structure surrounding the fuel cell stack as recited in new claims 30 and 31. The Kenchington reference also fails to teach or suggest a fuel cell assembly including a first valve that admits gas into the gas chamber from a single common exterior chamber having a second pressure, and a second valve that exhausts gas from the gas chamber into the single common exterior chamber as recited in claims 30 and 31. In the Kenchington reference, the three valves (106, 115, 116) in combination with the moving piston (102) serve to sequentially increase the pressures as the air moves from ambient pressure, to the central chamber (104), to the compression chamber (105) and to the outlet. Using the combination of valves (106, 115), while the air admitted through valve (106) into central chamber (104) may be at ambient pressure, the air exhausted from valve (115) is not moved to the same

chamber that served as the air supply for valve (106). Instead, the air exhausted from valve (115) moves into the compression chamber (105), which is not at the same pressure as the area where the air passing through valve (106) originates from.

Using the combination of valves (115, 116), while the air exhausted through valve (116) from compression chamber (105) may be at ambient pressure, the air admitted through valve (115) is not from the same chamber that served as the air exhaust outlet for valve (116). Instead, the air admitted into valve (115) originates from the central chamber (104), which is not at the same pressure as the area in which the air being exhausted from valve (166) passes into.

For at least the foregoing reasons, Applicants submit that the Kenchington reference fails to teach or suggest all of the limitations included in claims 30 and 31.

Conclusion

In light of the foregoing, Applicants submit that claims 11-31 are in condition for allowance and such allowance is respectfully requested. Should the Examiner feel that any unresolved issues remain in this case, the undersigned may be contacted at the telephone number listed below to arrange for an issue resolving conference.

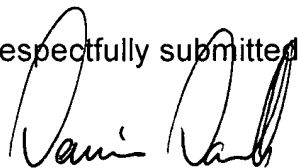
The Commissioner is hereby authorized to charge the \$810.00 fee for the Request for Continued Examination (RCE), the \$50.00 fee for the one additional

claim in excess of twenty, and any other fee that may have been overlooked, to

Deposit Account No. 50-4635.

Dated: 8/10/08

Respectfully submitted,



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Amendment and Response After Decision on Appeal

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